119

SUPREME COURT OF THE UNITED STATES.

No. 175.

THE UNITED STATES, APP'TS,

vs.

CRESOGONO AYALA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the Proceedings in Case No. 494,

CRESOGONO AYALA, Claimant,
vs.
UNITED STATES, Defendant,

For the place named "Santa Ana."

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this twentieth of December, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Cresogono Ayala for the place named "Santa Ana" was presented and ordered to be filed and docketed with No. 494, and is as follows, to wit:

(*Vide* page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, February 11, 1853.

In case No. 494, Cresogono Ayala, for the place named "Santa Ana," the deposition of Jose Maria Covarrubias, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed:

(*Vide* page 5 of this Transcript.)

SAN FRANCISCO, February 11th, 1853.

In the same case the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T. No. 1, annexed thereto, was filed:

(*Vide* page 6 of this Transcript.)

SAN FRANCISCO, September 26th, 1853.

In the same case the deposition of Francisco de la Guerra, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed:

(*Vide* page 7 of this Transcript.)

SAN FRANCISCO, September 28th, 1853.

Case No. 494 called: submitted on briefs on both sides and taken under advisement by the Board.

SAN FRANCISCO, January 24th, 1854.

In the same case Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim.

(*Vide* page 33 of this Transcript.)

(*Petition.*)

To the Honorable Commissioners to settle Private Land Claims in California:—

The petitioners, Cresogono Ayala for himself and Bernardina Alvares de Vanegas, Pablo Vanegas, Crisogono Ayala, Francisco Ayala, Ramon Ayala, Pedro Ayala, Buenaventura Ayala, Jacobo Ayala, Merced Ayala, Joaquin Ayala, Maria Ayala, Jose del Refugio Ayala, and Jose Ramon Ayala, widow and heirs of Cosme Venegas, deceased, respectfully show—

That on the 14th day of April, 1837, Juan B. Alvarado, Governor of *Governor of* California, by virtue of authority in him vested, granted to Cresogono Ayala, one of these petitioners, and to Cosme Venegas, the tract of land called Santa Ana, situated in the present county of Santa Barbara, with the boundaries described in said grant, and represented in the accompanying maps. That said grant was duly approved by the Deputation on the 18th of May, 1837, and that the said tract of land was duly surveyed and the juridical possession given in due form on the 8th day of July, 1843, all of which is fully shown by the original title, approval map, and record of juridical possession submitted herewith, marked "*A*," with a translation marked "*B*;" and the petitioners further show that the said Cosme Vanegas died on the day of 184 , leaving the Bernardina Alvares de Vanegas his widow, and Pablo Vanegas and Barbara Vanegas de Ayala his only legitimate children; that said Barbara Vanegas died on the day of 185 , leaving the petitioner her widower, and Francisco Ayala, Raymon Ayala, Pedro Ayala, Buenaventura Ayala, Joaquin Ayala, Jose del Refugio Ayala, Maria Ayala, Jacobo Ayala, Merced Ayala, and Jose Ramon Ayala the only legitimate children.

That the petitioners and those under whom they hold, have been for more than fifteen years and now are in the quiet and undisputed possession of the said tract of land.

That they know of no conflicting claim. That they rely for confirmation of title upon the original papers submitted herewith, upon the notes and records in the archives of the former Government, in the charge of the U. S. Surveyor-General of California, and upon such other and further proofs as they may be advised are necessary.

Therefore, they pray the Commissioners to confirm to them the aforesaid tract of land.

By their Att'ys,

HALLECK, PEACHY, & BILLINGS.

Filed in office Dec. 20, 1852.

GEO. FISHER,
Sec'y.

(*Deposition of Jos. M. Covarrubias.*)

SAN FRANCISCO, Feb'y 11th, 1853.

On this day, before Harry J. Thornton came Jose Maria Covarrubias, a witness in behalf of the claimant Cresogono Ayala, *et a.*, petition No. 494, and was duly sworn, his evidence being interpreted by the secretary. In answer to questions by counsel for claimant the witness testified as follows:—

My name is José Maria Covarrubias; my age is 44 years, and I reside in Santa Barbara, and have lived in California 19 years.

I know the rancho called Santa Anna, in Santa Barbara county; it was first occupied by Crisogono Ayala and Cosme Vanegas in 1837, and has been occupied ever since by them or their families; they had a house, cattle, and sowings on it; Cosme Vanegas died in 1850 leaving Bernardina Alvares and two children, Pablo and Barbara; Barbara died 1851, leaving Cresogono Ayala her widower, and ten children, whose names I believe are correctly given in the petition filed in this case. I know of no conflicting claims.

JOSE M'A COVARRUBIAS.

U. S. Law Agent present.

Sworn to and subscribed before me this 11th day of Feb'y, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office Feb. 11, 1853.

GEO. FISHER,
Sec'y.

(*Deposition of P. de la Guerra.*)

SAN FRANCISCO, Feb'y 17, 1853.

On this day, before Harry J. Thornton came Pablo de la Guerra, a witness in behalf of the claimant Cresogono Ayala *et al.*, petition No. 494, and was duly sworn, his evidence being given in English.

My name is Pablo de la Guerra; my age is 33 years; I reside in Santa Barbara county, and am a native of California. I know the signatures of Juan B. Alvarado, Victor Prudon, Manuel Jimeno, Anastasio Carrillo, Joaquin Carrillo, and Manuel P. de Leon; their signatures to the papers before me, marked Exhibit No. 1, and

attached to this deposition, are to the best of my knowledge and belief genuine signatures.

U. S. Law Agent present.

PABLO DE LA GUERRA.

Sworn to and subscribed before me this 17th day of February, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office Feb. 17, 1853.

GEO. FISHER,
Sec'y.

(*Deposition of F. de la Guerra.*)

OFFICE OF THE BOARD OF U. S. COMMISSIONERS, &C.

This day, before Commissioner Alpheus Felch came Francisco de la Guerra, a witness in behalf of claimant, Cresogono Ayala *et al.*, No. 494, who, after being duly sworn, deposed as follows:

Questions by Mr. Halleck, att'y for claimants.

1st Question. What are your name, age, and place of residence?

Answer. My name is Francisco de la Guerra; my age thirty-six years; I reside at Santa Barbara, in California.

2d Question. Are you acquainted with Cosme Vanegas and Cresogono Ayala, the grantees in this case?

Answer. I was acquainted with both of them; I have known them ever since my boyhood; Cosme Vanegas is dead; he died about the year 1851, as I recollect; Cresogno Ayala is still living.

3d Question. Do you know whether Vanegas left a widow and children? If yea, state their names.

Answer. He left a widow, whose name is Bernardina Alvares, and who is now living; a son, whose name is Pablo, and a daughter named Barbara. The son Pablo is still living, but Barbara the daughter is dead. She died about two years ago and left several children. Her husband was Cresogono Ayala, before named.

4th Question. Do you know the Rancho Santa Anna, claimed in this case? If yea, where is it situated, and what do you know about its occupation?

Answer. I known the Rancho; it is situated near the Mission of San Buenaventura, in Santa Barbara county. The grantees occupied it immediately after the grant of it was made to them. They occupied it by building upon it houses and corrals, and making enclosures, stocking it with cattle and horses, and cultivating portions of the ground, and living with their families on the premises. This occupation has been continued up to the present time. I was present on the estate at the time of the partition of the personal property of Vanegas among his heirs. There were on the Rancho then about three hundred head of cattle, and from eighty to one hundred

horses, which belonged to his estate. I do not know how many there were then belonging to Ayala. They raised from one to two hundred fanegas of wheat, and also cultivated considerable quantity of beans, and barley, and corn.

FRANC'CO DE LA GUERRA.

Mr. Greenhow, Associate Law Agent, was present at the taking of this deposition, but declined to interrogate the witness. Mr. Fisher, Secretary, &c., acted as interpreter, the testimony being given in the Spanish language.

Subscribed and sworn to before me at San Francisco, this twenty-sixth day of September, A. D. 1853.

ALPHEUS FELCH,
Com'r.

Filed in office Sept. 26th, 1853.

GEO. FISHER,
Sec'y.

Espediente promovido por el Ciud'o Erisogono Ayala, en solicitud del terreno nombrado Sta. Ana. 1839. 163.

Sello Cuarto una Cuartilla.

Habilitado provicionalmente por la Aduana maritima de Monterey, para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro.

FIGUEROA. JOSE RAFAEL GONZALES.

Revalidado para los años de 1836 y 1837.

CHICO. ANGELES RAMIREZ.

Erisogono Ayala y Cosme Bonegas ambos vecinos de Sta. Barbara ante V. E. como mejor lujar de Derecho o en derecho y con la mayor sumicion dicen.

Que habiendo ambos con mas numerosas familias hagen en sostener y estan radicado en el Pto de Santa Barbara, adonde como es notorio no hay terrenos sufficientes para mantener un numero de ganado mayor, sientos Reces para haumentar los en beneficio de sus espresadas familias se presentan ha V. E. pidiendo el paraje nombrado Sta. Ana, Rumbo al Norte y Rio arriba de Sta. Buenaventura para poner en el su radicaciones y fomentar sus bienes para la mantencion de sus numerosas familias como arriba esponen.

Por tanto A. V. S. suplican ambos rendidomente se le conceda la gracia y merced q'e esta instancia en lo que recibirán gracia y merced Sta. Buenaventura, Feb'ro 10 de 1839, Blos' M. d. V. E.

attached to this deposition, are to the best of my knowledge and belief genuine signatures.

U. S. Law Agent present.

PABLO DE LA GUERRA.

Sworn to and subscribed before me this 17th day of February, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office Feb. 17, 1853.

GEO. FISHER,
Sec'y.

(*Deposition of F. de la Guerra.*)

OFFICE OF THE BOARD OF U. S. COMMISSIONERS, &C.

This day, before Commissioner Alpheus Felch came Francisco de la Guerra, a witness in behalf of claimant, Cresogono Ayala *et al.*, No. 494, who, after being duly sworn, deposed as follows:

Questions by Mr. Halleck, att'y for claimants.

1st Question. What are your name, age, and place of residence?

Answer. My name is Francisco de la Guerra; my age thirty-six years; I reside at Santa Barbara, in California.

2d Question. Are you acquainted with Cosme Vanegas and Cresogono Ayala, the grantees in this case?

Answer. I was acquainted with both of them; I have known them ever since my boyhood; Cosme Vanegas is dead; he died about the year 1851, as I recollect; Cresogno Ayala is still living.

3d Question. Do you know whether Vanegas left a widow and children? If yea, state their names.

Answer. He left a widow, whose name is Bernardina Alvares, and who is now living; a son, whose name is Pablo, and a daughter named Barbara. The son Pablo is still living, but Barbara the daughter is dead. She died about two years ago and left several children. Her husband was Cresogono Ayala, before named.

4th Question. Do you know the Rancho Santa Anna, claimed in this case? If yea, where is it situated, and what do you know about its occupation?

Answer. I known the Rancho; it is situated near the Mission of San Buenaventura, in Santa Barbara county. The grantees occupied it immediately after the grant of it was made to them. They occupied it by building upon it houses and corrals, and making enclosures, stocking it with cattle and horses, and cultivating portions of the ground, and living with their families on the premises. This occupation has been continued up to the present time. I was present on the estate at the time of the partition of the personal property of Vanegas among his heirs. There were on the Rancho then about three hundred head of cattle, and from eighty to one hundred

horses, which belonged to his estate. I do not know how many there were then belonging to Ayala. They raised from one to two hundred fanegas of wheat, and also cultivated considerable quantity of beans, and barley, and corn.

FRANC'CO DE LA GUERRA.

Mr. Greenhow, Associate Law Agent, was present at the taking of this deposition, but declined to interrogate the witness. Mr. Fisher, Secretary, &c., acted as interpreter, the testimony being given in the Spanish language.

Subscribed and sworn to before me at San Francisco, this twenty-sixth day of September, A. D. 1853.

ALPHEUS FELCH,
Com'r.

Filed in office Sept. 26th, 1853.

GEO. FISHER,
Sec'y.

Espediente promovido por el Ciud'o Erisogono Ayala, en solicitud del terreno nombrado Sta. Ana. 1839. 163.

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FIGUEROA. JOSE RAFAEL GONZALES.

Revalidado para los años de 1836 y 1837.

CHICO. ANGELES RAMIREZ.

Erisogono Ayala y Cosme Bonegas ambos vecinos de Sta. Barbara ante V. E. como mejor lujar de Derecho o en derecho y con la mayor sumicion dicen.

Que habiendo ambos con mas numerosas familias hagen en sostener y estan radicado en el Pto de Santa Barbara, adonde como es notorio no hay terrenos sufficientes para mantener un numero de ganado mayor, sientos Reces para haumentar los en beneficio de sus espresadas familias se presentan ha V. E. pidiendo el paraje nombrado Sta. Ana, Rumbo al Norte y Rio arriba de Sta. Buenaventura para poner en el su radicaciones y fomentar sus bienes para la mantencion de sus numerosas familias como arriba esponen.

Por tanto A. V. S. suplican ambos rendidomente se le conceda la gracia y merced q'e esta instancia en lo que recibirán gracia y merced Sta. Buenaventura, Feb'ro 10 de 1839, Blos' M. d. V. E.

Erisogono Ayala, Cosmé Bonegas, Sta. Barbara, Mayo 10 de 1837. Vista la presente solecitud en q'e el ciud'o Erisogono Ayala pide á cederle con Cosme Vinegas, que el fomento del rancho q'e pretendió el S'or en la representacion ajunto, f'ha. 10 de Fo. ulto. agregare a estes los antecedentes y tengan por comprendido Cosme Vanegas, en el decreto de concesion, incluyo el en de pf Abril.

JUAN B. ALVARADO. VICTOR PRUDON,
S'rio Int'r.

[For map see original, between pages 10 and 11.]

Sello cuarto una Cuartilla.

Habilitado provicionalmente por la administracion de la Aduana maritima de Monterey, para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro.

Revalidado para los años de 1836 y 1837.

FIGUEROA. CHICO. JOSE RAFAEL GONZALES.

Informe El. I. Ayunt'to de esta demarcacion si el interesado en esto instancio obtiène los requisitos necesarios p'a ser atendido en su solecitud; si el terreno q'e pretende es baldio, si no pertenece á, la propiedad particular de alguno individuo ó Pueblo o Evacuadas estos informes, volvera este Espediente al Gob'no para en resolucion.

ALVARADO.

Ex'mo S'or.

Erisogono Ayala, vecino del Pueblo de Sta. Barbara ante V. E. con el mejor respeto y como mas haya lugar se represente q'e teniendo un numerosa familia quien sotener y estan radicado en el Punto de Sta. Barbara, ha donde, como es notario no hay terreno suficiente para mantener de pié un numero de dosientos Reces para asemartar los en beneficio de su espresada familia; se presente á V. E. pidiendo el parage nombrado Sta. Ana, rumbo el y rio arriba de Sta. Buenav'to para poner en el mencionado de su numerosa familia como arriba espone.

Por tanto ó V. E. rendidamente suplico se le conceda el q. solecita en la instancia en lo que revibiré gracia y merced.

Sta. Buenaventura, Feb'ro. 1° de 1837.

P. S. ch. d V. E. ERISOGONO AYALA.

Ill're Ayuntamiento:

La comision á quien V. S. se ha servido comisar para dictaminar sobre el espediente formando por el Sor. Erisogono Ayala en pretencion del parage nombrado Sta. Ana, en observancia del decreto del Gobierno con f'ha nueve del presente espone que el interesado

obtiene todos los requisitas legales para ser atendido en la solecitud, que el terrano es baldio y en estado de adjudicarse en colonisacion conforme á la ley de 18 de Agosto de 1829 y reglamentos de Nov'bre de 1828 para aunque sea reconocido por de la pertenencia de la Ex. Mision de Sta. Buenav'to se haya á la rey butollo y seis la occupacion necesaria por consiguiente en estado de adjudicarse conforme a las leyes citadas. Por tanto el que representa es Ciud'o Mejicano amentado, tiene buena conducta y bienes con que poblar lo por lo que se hace aceder á ser amparado por la ley y por las condiciones del Gobierno, á quien representaron. Por tanto A. V. E. afrese á la Comision á la deliberacion de V. E. la siguiente proposicion. Puede el Gobierno adjudicar en propiedad al Ciud'o Erisogono Ayala el paraje nombrado Sta. Ana.

Sta. Barbara, Marzo 14 de 1837.

VALENTIN COTA. PABLO VANEGA.

En sesion del dia de hay aprobó el J. A. la proposicion del dictamen anterior acordado vuelva el espediente al Gobierno para en resolucion.

Sta. Barbara, Marzo 17 de 1837.

S'rio. BENITO DIAZ. DIEGO ALVERA.

Ex'mo S'or.

La comicion de terrenos baldias a puesto del Espediente promovido por Don Erisogono Ayala, Cosme Bonegas en solecitud del paraje nombrado Sta. Ana, no encuentra inconveniente alguno para que se conceda concecuenta á su pretencion por lo que la comision concluye poniendo á la deliberacion de V. S. la siguientes proposiciones.

1a. Se concede al Ciud'a Erisogono Ayala y á Cosme Bonegas, el paraje nombrado Sta. Ana por obtener los requisitas q'e previene la ley de 18 de Ag'to de 1824 y el articulo 5 del reglamento de 21 de Marzo de 1824.

Sta. Barbara 16 de Mayo de 1837.

JOSE R. ESTRADA. FRAN'CO J. ALVARADO.

Sta. Barbara, Mayo de 18 de 1837.

En sesion de hay se le dispensarán las tramites á la propocion del dictamen q'e antecede y fue aprobado por mayors absoluta. de raruy.

ANTONIO BUENA, *S'rio Int'o.*
JOSE MARIA COVARRUBIAS, *S'rio.*

Sta. Barbara, Abril 14 de 1837.

Vista la peticion con que da principio este espediente y el informe del Il'tre Ayuntam'to de esta Municipalidad con todo lo demas, que de tubo presente y ver convino de conformidad con

las leyes y reglamentos de la materia se declará á D'n Erisogono Ayala, dueño en propiedad del terreno nombrado Sta. Ayala, conforme al diseño que acompaña á la solecitud y dentro de los linderos q'e en el paraje linee el despacho correspondiente, tomese razon, en el libro respectivo y dirijase este Espediente á la Ex'ma Diputacion en cullo caro el interesado á quien se de ora saber a decretar pusalarán nombram'to su titulo p'l que se le revalide el S'or Don Juan B. Alvarado, Gobernador interino del Estado, Presidente de la buena Asamblea, lo decreto, mando y firmé de que doy fée.

JUAN B. ALVARADO.

OFFICE OF THE SURVEYOR-GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, Surveyor-General of the United States for California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican territory, do hereby certify, that the twelve preceding and hereunto annexed pages of tracing paper, numbered from one to twelve inclusive, exhibit true and accurate copies of certain now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at this city of San Francisco, Calif'a, this seventh day of October, A. D. 1853.

JOHN C. HAYS,
Surveyor-Gen'l for Calif'a.

Filed in office Nov. 9, 1853.

GEO. FISHER,
Sec'y.

(*Translation of Espediente.*)

Stamp Fourth. One Cuartilla.

Provisionally authorized by the Administration of the maritime Custom House of Monterey for the years 1833 and 1834.

FIGUEROA. JOSE RAFAEL GONZALES.

Revalidated for the years 1836 and 1837.

CHICO. ANGEL RAMIREZ.

Most Excellent Sir:

Cresogono Ayala and Cosme Banegas, both citizens of Santa Barbara, before your Excellency, as is most proper of right, or in law, and with the greatest submission, say—

That both having large families to support, and being settled in the point of Santa Barbara, where it is notorious that there is not sufficient to support a stock of four hundred cattle, and having to increase them for the support of their said families, they present

themselves to your Excellency, asking for the place called Santa Ana, to the north, and up the river San Buenaventura, where they wish to settle and increase their property for the benefit of their numerous families, as expressed above: Wherefore they both pray your Excellency in due form to grant them the favor they ask in this case, by which they will receive favor and grace.

B. L. M. de V. E.

San Buenaventura, February 10, 1837.

CRISOGONO AYALA,
COSME BANEGAS.

SANTA BARBARA, May 10, 1837.

Having seen the present petition, in which citizen Crisogono Ayala asks to associate himself with Cosme Vanegas to settle the Rancho which he first petitioned for in the annexed petition of February 10th, last past—

Let this be added to the preceding, and Cosme Vanegas be considered as included in the Decree of Concession of the 14th of last April.

JUAN B. ALVARADO. VICTOR PRUDON,
Secretary ad Interim.

SANTA BARBARA, March 9th, 1837.

The Illustrious Ayuntamento of this municipality will report if the party interested in case has the requisite necessary to entitle him to be attended to, if the land asked for is the private property of any individual or Pueblo. Having made these reports, return the Espediente to the Government for its decision.

ALVARADO.

Most Excellent Señor:

Cresogono Ayala, resident of the Puebla of Santa Barbara, before your Excellency, with the greatest respect, and as is most proper, represents—

That, having a numerous family to support, and being settled in the point of Santa Barbara, where as is notorious there is not land sufficient to support a stock of two hundred head of cattle, in order to increase them for the benefit of his said family, he represents himself to your Excellency, asking for the place called Santa Ana, to the north and up the river San Buenaventura, in order to settle in it and to increase his property for the maintenance of his family, as above expressed.

Wherefore he prays your Excellency to grant him what he asks for, by which he will receive grace and favor.

San Buenaventura, February 10, 1837.

B. L. M. de V. E. CRESOGONO AYALA.

To the Illustrious Ayuntamiento :—

The committee to which you referred to, report the Espediente formed by Citizen Crisogono Ayala in application for the place called Santa Ana, in compliance with the decree of the Government, dated the 9th inst., reports—

That the party interested has all the legal requisites to entitle him to be attended to in his petition ; that the land asked for is vacant, and in condition to be granted in colonisation, conformably to the law of the 18th August, 1824, and the regulations of November, 1828 ; some have regarded it as an appurtenance to the Ex-Mission of San Buenaventura, but it is seen to be consequently a condition to be granted conformably to the above law. The petitioner is a Mexican citizen of good conduct, and has property to settle the land, by which he deserves to be favored by the law and to meet the consideration of the Government to which he presents himself. Wherefore they offer for your deliberation the following propositions.

The Government can grant in property to citizen Cresogono Ayala the place called Santa Ana.

Santa Barbara, March 14, 1837.

VALENTIN COTA. PABLO VANEGAS.

In session this day the Illustrious Ayuntamiento approved the proposition of the foregoing report, and directed the Espediente to be returned to the Government for its decision.

Santa Barbara, March 15th, 1837.

BENITO DIAZ. DIEGO OLIVARA.

SANTA BARBARA, April 14th, 1837.

Having seen the petition with which this Espediente begins, the reports of the Illustrious Ayuntamiento of this municipality, with all else presented and to be seen in conformity with the laws and regulations on the matter, citizen Cresogono is declared owner in property of the land known by the name of Santa Ana, and, according to the map which accompanies the petition and within the boundaries which appear on it, make out the corresponding dispatch, take note of it in the respective book, submit this Espediente to the most excellent deputation, of which inform the party interested, who will be notified of this decree that he may present his title in order that it may be reinvalidated.

Don Juan B. Alvarado, Governor *ad interim* of the State, and President of the Most Excellent deputation, thus decreed, ordered and signed, of which I certify.

JUAN B. ALVARADO.

Most Excellent Señor:—

The Committee on Vacant Lands charged with the Espediente moved by citizens Crisogono Ayala and Cosme Vanegas, asking

the place called Santa Ana, finds no objection to granting their petition. Wherefore it submits to your Excellency the following proposition:—

1st. There is granted to citizen Crisogono Ayala and Cosme Banegas the place called Santa Ana, and they have the requisites which the law of August 18th, 1824, and Act 5 of the regulations of November 21, 1828, required.

Santa Barbara, May 16th, 1837.

JOSE R. ESTRADA. FRANCISCO J. ALVARADO.

SANTA BARBARA, May 16th, 1837.

In session of this day the proposition of the preceding was brought up and passed by an absolute majority of votes.

ANTONIO BUELNA,
Pres't.

JOSE MA. COVARRUBIAS,
Secretary.

Filed in office Nov. 9th, 1853.

GEO. FISHER,
Sec'y.

["A." Exhibit No. 1, attached to deposition of Pablo de la Guerra.]

El ciud'o Juan B. Alvarado, Gobernador del Estado y Presid'te de la Ex'ma Diputacion del mismo.

Por cuanto los Ciudo's Erisogono Ayala y Cosme Vanegas han pretendido para su beneficio personal y el de sus familias el terreno conocido con el nombre de S'ta Ana dentro de los linderos del diseño, q'e acompaño á su solicitud, practicadas previamente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades q'e me son conferidas á nombre de la nacion Mejicana hé veindo en concederle el terreno mencionado declarando le la propiedad de el por las presentes letras y entendiendose dicha concesion de conformidad con las leyos á reserva de la aprobacion de la Ex'ma Deputacion Departamental y bajo los condiciones siguientes.

1°. Los agraciados ni sus herederos podran dividir ni enagenar el que se les adjudica, inponer cenzo, vinculo, fianza hipoteca ni otro gravamen, aunque sea por causa piadosa, ni pasarlo á manos muertas.

2°. Podra cercarlo sin perjudicar las travesias, caminos y lo disfrutará libre y esclusivamente, destinando lo al uso ó cultivo que mas le acomode.

3°. Cuando se le conceda la propiedad, solecitáran del Juez respectivo les dé la pocecion Juridica en virtud de este despacho por el cual se demarcaran los linderos y poudran sus mohoneras.

4°. El terreno de que se hace donacion es puramente el que se espresa en la solicitud de los interesados y se demarca en el diseño, y el Juez q'e les pocecione, pasará aviso á este Gobierno del numero de Sitios q'e compréhende.

En consecuencia mando q'e sirviendole de titulo el presente y teniendose por firme y valedero, se tomé razon de el en el libro q'e corresponde y se entregue á los interesados, para sus resguardos y demas fines convenientes.

Dado en la Ex-Mision de S'ta Barbara a 14 de Abril de 1837.

JUAN B. ALVARADO. VICTOR PRUDON,
S'rio Int'o.

SANTA BARBARA, Mayo 18 de 1837.

En Sesion de este dia, aprobó la Ex'ma Diputacion, erigida en Congreso constituyente el dictamen de la comision de terrenos baldios, que consta en el Esped'te relativo, y á la letra es como signe.

"Se conceda á los CC. Eresogono Ayala y Cosme Vanegas el parage nombrado S'ta Ana p'a obtener los requisitos que previene la ley de 18 de Agosto de 1824 y el art. 5 del reglam'to de 21 de Nov'bre de 1828.

S'ta Barbara, Mayo 18 de 1837.

JOSÉ ESTRADA. FRAN'CO J. ALVARADO.
VICTOR PRUDON,
S'rio Int'o.

El interesado agregara, tarjado un pleijo de a seis p'e conforme á la ley.

V. PURDON.

Selle Tercero. Dos reales.

Habilitado provicionalmente por la Aduana maritima del Puerto de Monterey en el Departam'to de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO. ANTONIO MARIA OSIO.

[SEAL.] Rehabilitado por lo mismo para el año de mil ochocientos cuarenta y . . . . .

ALVARADO. ANT'O M'A OSIO.

(For map see original between pages 20 & 21.)

Año de 1840.

Documentas del Sitio nombrado S'ta Ana.

Sello Cuarto dos Reales.

Habilitado provicionalmente por la Aduana Maritima del Puerto de Monterey en el Departamento de las Californias para el año de mil ochocientos cuarenta y tres.

MICHELTORENA. MANUEL CASTANARES.

S'ta Barbara, Julio 7 de 1843.

En vertud de este despacho antecedente solicitud procedase por mi el presente Juez á la medicion señalamiento de linderos y pocecion Judicial q'e solicita los interesados de este Expediente señalandose efectuarlo el dia 8 de corriente año, lo que se ataron con boleta de comparecido á los colindantes. Asi yo el mencionado.

Sor Juez de Paz del partido Erisogono Ayala y Cosme Banegas vecinas de este Puerto comparecen y dicen q. siendo dueños del terreno conocido con el nombre de S'ta Ana en vertud de la concesion de el nos hizo el Gobierno con f'ha 14 de Abril de 1837 y aprobado por la Ex'ma Junta en 16 de Mayo del mismo, cuyo titulo y diseño acompañamos a esta, suplicamos a V. se sirva a dar nos le pocecion Juridica que es de estillo arreglado á la copia de d'ho terreno en lo q'e recibiremos gracia y justicia.

S'ta Barbara, Julio 6 de 1843.

Aruego de los interesados.

ANT'O CARRILLO.

Juez lo decreté y firmé con las testigos de asistencia, con quienes actuo por receptoria á falta de Escribano publico. Doy fée.

JOAQ'N CARILLO.

De Ass'a. Manuel P. de Leon
Ass'a. Rafael Pico.

En la f'ha presentes las ciudadanos Erisogono Ayala y Cosme Banegas, se les notificó el anto antecedante y de el enterado digeron quedan por citados y lo firmó conmigo el Ciudadano Pablo Boregas apoderado á los interesados y los testigos de acistencia.

JOAQ'N CARILLO.

Pablo Vanegas.
Man'l P. Leon.
Rafael Pico.

En la misma fecha se les notifico el anto que antecede á los colindantes y enterados digeron q. lo holloyen y firmaron con migo y los de mi acistencia.

JOAQ'N CARILLO.
MANUEL COTA.
JOSE MARAGO.

Ass'a Manuel de Leon.
Ass'a Rafael Pico.

En el misma fecha y en el espresado Rancho se les notifico el anto que aparecen nombrado medidores á los Indigenes Manuel y Jose Ignacio, y Estradas-Dieron que acepten y aceptaban dicho en-

cargo y juraron por Dios N. S. y la Senal de la cruz de usarlo fiel y legalmente á todo su leal y saber y entender sin dolo, fraude contra persona alguna y por no saber firmar hizieron ambos una cruz y lo firmaron los testigos de acistencia.

JOAQ'N CARILLO.

MANUEL P. DE LEON.
Ass'a RAFAEL PICO.

In continenti yo el Juez mandé traer á mi presencia el cordel con que se ha de medir las tierras y q'e los medidores lo midan de sincuenta varas y lo firmó con las testigos de acistencia.

JOAQ'N CARILLO.

Ass'a MANUEL DE P. LEON.
Ass'a RAFAEL PICO.

En la misma fecha en presencia de mi el referido Juez, los espresados medidores tomaron el cordel y con una vara Mejicana de medir tomandolo en la mano medieron cincuenta varas p'a acer la referido medicion y p'a constancia lo rubriqué.

En la misma f'ha y en el mismo Rancho siendo las diez de la mañana yo el presente Juez mande á las medidores se pongan para la medicion que se han de hacer del terreno de S'ta Ana p'a que los Ciudadanos Erisogono Ayala y Cosme Banegas, tomen pocecion de el y para los en la punta de la loma contigue o la viña vieja empesaron la medicion tomando el rumbo de Este hasta la mohonera de Malijia adonde habiendo, dijeron haberse medido dies y nueve mil varas desde el punto, rumbo al Norte hasta donde remata el Rincon se midieron dos mil varas donde dicho punto rumbo al Nor Oueste se consede haber siete mil y quinientos hasta el porteguelo del camino real, y desde este ultimo punto le concedo, hasta á donde comensarán las medidas onze mil Varas habiendo concluido esta medicion resulta tener en circunferencia Jacta y dos mil y quinientas Varas, y habiendo echo el señalamiento de lindero en la punta de la loma contigua ó la viño bieja, en la rancheria de Matilija en donde remata el Rincon y el Portezuelo del camino real, mandi formasen mojonera y para constancia lo firmo por auto con los testigos de acistencia.

JOAQ'N CARILLO.

Ass'a MAN'L P. LEON.
RAFAEL PICO.

En la misma fecha yo el indicado Juez mandé que en virtud de haberse medido el terreno y haberse echo del señalamiento de Linderos se pongan en pocecion Juridica Los Ciudadanos Erisogono Ayala y Cosme Bonegas y notifique les á los colindantes, lo que firmé por anto con los de mi asistencia.

JOAQ'N CARILLO.

MANUEL DE LEON,
RAFAEL PICO.

En la fecha se les notifique á los colindantes Manuel Cota como dueño del S'or Antonio Abad y á José Moraga apoderado del Rancho de la Cañada larga el anterior y enterados dijeron que lo allyen y firmaron con migo y los de acistencia.

JOAQ'N CARILLO,
MANUEL COTA,
JOSÉ MORAGA.

Ass'a: MANUEL P. DE LEON.
PICO.

En el Rancho de Santa Ana, siendo á las seis de la tarde del mismo dia, mes y año los Ciudadanos Erisogono Ayala y Cosme Bonegas, Vecinos de S'ta Barbara acompanando del Juez y testigos, con animo, segun dijeron de tomar la verdadera corporal y real posecion del espresado terreno de S'ta Ana y no haberles pertenecido con Justo, titulo que obtienen del Gobierno Politico del Departamento, con fecha catore de Abril de mil ochocientos treinta y siete; y aprobado por la Ex'ma Junta en dies y seis de Mayo del mismo año, entraron y pasaron por dicho terreno, arrancan yerbas, esparcian puñadas de tierra rompieron ramao de arboles, hicieron otras ceremonias de verdadera pocecion en señal de lo que dijeron tomar y que tambien de dichas tierras y mandé yo el Sitado Jues q. desde entonces lo tubiesen y reconosen á los Señores Ayala y Bonegas y verdaderos dueños, Señores y posedores de ello de todo lo referido pidieron los repetedos Señores Ayala y Bonegas q. pr. memoria en la venidera y conservacion de sus derechos por mi el Juez les fuese estendido una constancia, lo que aci fue atendido siendo testigos de acistencia los ciud'os Manuel P. de Leon, Rafael Pico, con quienes actuo en receptoria a falta de escribano publico q. no lo hay segun derecho, Doy fee.

JOAQ'N CARILLO.

MANUEL P. DE LEON.
RAFAEL PICO.

Filed in office Dec. 20th, 1852.

GEO. FISHER,
Sec'y.

[Feb'r 15, F'd 1853. G. F., *S.*]

[*Translation of Title, Approval and Juridical Possession.*]

Citizen Juan B. Alvarado, Governor of the State, and President of the most Excellent Deputation of the same.

Whereas citizen Cresogono Ayala and Cosme Vanegas have, for their own personal benefit and that of their families, petitioned for the lands known by the name of Santa Ana, within the boundaries of the map which accompanies their petition, the proper measures being previously taken as required by laws and regulations on the matter, using the powers which are conferred on me, in the name of

the Mexican Nation I have granted them the aforesaid land, declaring to them the ownership of it by these presents: said grant being understood to be in conformity to the laws, subject to the approval or disapproval of the most Excellent Deputation, and under the following conditions:

1st. The grantees may not divide or alienate that which is granted to them, subject it to any tax, entail, pledge, mortgage, or other encumbrance, even for pious purposes, nor convey it in mortmain.

2d. They may enclose it without prejudice to the crossings and roads, and enjoy it freely and exclusively, making such use and cultivation of it as may best suit them.

3d. When the ownership is granted to them they shall request the proper magistrate to give them the juridical possession in virtue of this patent, by whom the boundaries will be marked out and the bounds placed.

4th. The land, of which donation is made to them, is solely that described in the petition of the persons interested and marked out on the map, and the magistrate who may put them in possession will advise this Government of the number of square leagues it contains.

In consequence, I order that this present, serving him for a title and being held as firm and valid, note be made of it in the corresponding book and it be delivered to the persons interested for their security and other purposes.

Given in the Ex-Mission of Santa Barbara on the 14th April, 1837.

(Signed) JUAN B. ALVARADO.

(Signed) VICTOR PRUDON,
Secretary ad interim.

SANTA BARBARA, May 18, 1837.

In session of this day the most Excellent Deputation erected into a Constitutional Congress, approved the report of the Committee on vacant lands, which appears in the respective Espediente as is literally as follows:

"There is granted to citizen Cresogono Ayala and Cosme Vanegas the place named Santa Ana, as they possess the requisites required by the law of August 18, 1824 and 5 of the regulations of Nov. 21, 1828.

Santa Barbara, May 16th, 1837.

JOSÉ R. ESTRADA. FRANCISCO T. ALVARADO.

(S'g'd) JUAN B. ALVARADO.

(S'g'd) VICTOR PRUDON,
Secretary ad interim.

The persons interested will attach a sheet of the value of six dollars, first drawing lines over it according to law.

(S'g'd) V. PRUDON.

Stamp Fourth. Two Reals.

Provisionally authorized by the Maritime Custom House of Port of Monterey in the Department of Californias for the year one thousand eight hundred and forty-three.

(S'g'd) MICHELTORENA.

[SEAL.] (S'g'd) MAN'L CASTANARES.

SANTA BARBARA, July 7, 1843.

In virtue of the foregoing request, I, the present Magistrate, will proceed to the measurement, description of boundaries, and juridical possession in which the persons interested in this Espediente request, designating for their performance the 8th day of the present month, for which the Colindantes will be summoned to appear, in writing.

To the Justice of the Peace of the Partido:—

We, Cresogono Ayala and Cosme Vanegas, residents of this place, appear and say, that being owners of the land known by the name of Santa Ana, and in virtue of a grant of it, which the Government made us with date April 14th, 1837, and approved by the Most Excellent Junta on the 16th of May of the same year, the title and map of which we transmit with this, we pray you to have the goodness to give us the juridicial possession as is usual, in conformity with the copy of said map, in which we will receive favor and justice.

Santa Barbara, July 6, 1843.

At the request of the persons interested.

(S'g'd) ANASTASIO CARRILLO.

Thus I, the aforesaid Magistrate, decreed, ordered, and signed, with whom I act in virtue of my office, for want of a Notary Public. I certify.

Assisting witnesses,

(S'g'd) MANUEL P. DE LEON,
(S'g'd) JOAQ'N CARILLO,
(S'g'd) RAFAEL PICO.

On the same day, present citizens Cresogono Ayala and Cosme Vanegas, they were notified of the foregoing decree, and having understood it, they said they heard it and considered themselves

summoned, and citizen Pablo Vanegas, Attorney in fact of the persons interested, signed it with me and the assisting witnesses.

(S'g'd) JAQ'N CARILLO.
(S'g'd) PABLO VANEGAS.

Assisting witnesses,

(S'g'd) MAN'L P. DE LEON.
(S'g'd) RAFAEL PICO.

On the same date the summons ordered in the preceding decree were issued, and in testimony I sign it in the rubric.

(Rubric of JOAQ'N CARRILLO.)

In the rancho of Santa Ana on the 8th day of the month of July, one thousand eight hundred and forty-three, in compliance with the decree of the seventh of the present month, there appeared citizens Manuel Cota, as Colindante for San Antonio Abad, and José Moraga, Attorney summoned for the measurement, designation of boundaries, and possession; I appointed measurers the Indians Manuel and Jose Ignacio, who, after the acceptance and oath, proceeded to discharge the duties of their office. Thus I, the said Magistrate, decreed, ordered, and signed with the assisting witnesses.

(S'g'd) JOAQ'N CARRILLO.

Assisting witnesses,

(S'g'd) MAN'L P. DE LEON.
(S'g'd) RAFAEL PICO.

On the same date the preceding decree was made known to the Colindantes, and having understood it, they said that they heard it, and they signed with me and the assisting witnesses.

(S'g'd) JOAQ'N CARRILLO.
(") MAN'L COTA.
(") JOSE MORAGA.

Assisting witnesses,

(S'g'd) MAN'L P. DE LEON.
(S'g'd) RAFAEL PICO.

On the same date the Indians Manuel and Jose Ignacio were notified of the decree in which they appear as appointed measurers, and having understood it, they said that they accept, and they accepted said office, and they made oath by God our Lord and the sign of the cross, to fulfil it faithfully and legally to the best of their knowledge and understanding without deceit or fraud against any person, and not knowing how to write they made each a cross, and I signed it with the assisting witnesses.

(S'g'd) JOAQ'N CARRILLO.

Assisting witnesses,

(S'g'd) MAN'L P. LEON.
(S'g'd) RAFAEL PICO.

In continuation, I, the Magistrate, ordered the rope to be brought before me with which the lands are to be measured, and that the measurers mark off on it fifty varas, and I signed it with the assist'g witnesses.

(S'g'd) JOAQ'N CARRILLO.

Assisting witnesses.

(S'g'd) MAN'L P. DE LEON.
(S'g'd) RAFAEL PICO.

On the same date in presence of me, the aforesaid Magistrate, the measurers before mentioned took the cordel, and with a Mexican vara measure, taking it in their hands, they measured off fifty varas for the purpose of making the measurement referred to. In testimony I signed it in rubric.

(Rubric of JOAQ'N CARRILLO.)

On the aforesaid date and in the aforesaid Rancho, being 10 o'clock in the morning, I, the present Magistrate, ordered the measurers to place themselves for the measurement, which has to be made of the land of Santa Ana, in order that citizens Cresogono Ayala and Cosme Vanegas may take possession of it, and standing on the point of the hill near la Viña Vieja, they commenced the measurement, taking the direction easterly as far as the Rancheria Matilijio, where, having arrived, they said that they have measured nineteen thousand varas; from this point north to the end of El Rincon they measured twelve thousand varas; from said point northwest it was estimated to be seven thousand five hundred to the portezuelo of the main road, and from this last point to where the measurements were commenced it was estimated eleven thousand varas: this measurement being concluded, it proved to be included in a boundary of fifty-two thousand five hundred varas; and the designation of boundaries having been made in the point of the hill near "la Viña Vieja" in the Rancheria of Matilija, where the Rincon ends, and in the Portezuelo of the main road; and I ordered bounds to be placed, and in testimony I signed it officially with the assisting witnesses.

(S'g'd) JOAQ'N CARRILLO.

Assisting witnesses,

(S'g'd) MAN'L P. DE LEON.
(") RAFAEL PICO.

On the same date, I, the Magistrate referred to, ordered that in virtue of the land having been measured and the designation of boundaries made, citizens Cresogono Ayala and Cosme Vanegas be placed in juridical possession, and that the Colindantes be notified of it, which I signed officially with those assistance.

(S'g'd) JOAQ'N CARRILLO.

Assisting witnesses,

(S'g'd) MAN'L P. DE LEON.
(S'g'd) RAFAEL PICO.

On the same date the foregoing was made known to the Colindantes Manuel Cota as owner of the rancho of San Antonio Abad, Jose Moraga, attorney in fact for the rancho of "La Cañada Larga," and having understood it, they said they heard it, and they signed with me and the assisting witnesses.

(Signed) JOAQ'N CARILLO.
(Signed) MAN'L COTA.
(Signed) JOSE MORAGA.

In the Rancho of Santa Ana, being about six o'clock in the afternoon of the same day, month, and year, Citizen Cresogono Ayala and Cosmo Vanegas, residents of Santa Barbara, accompanied by the Magistrate and witnesses, with the intention, as they said, to take the true corporeal and real possession of the aforesaid land of Santa Ana, because it pertains to them by a just title, which they hold from the Civil Government of the Department, dated April 14th, 1837, and approved by the Most Excellent Junta: On the 16th of May, of the same year, they entered upon and walked over said land, pulled up grass, scattered hands full of earth, broke branches of trees, and performed other ceremonies of true possession, as signs of that which they said they took, and which they were taking of said land, and I, the aforesaid Magistrate ordered that from that time forth, they (Señores Ayala and Vanegas), should be held and recognized as the true owners, lords, and possessors of it. The Señores Ayala and Vanegas asked that for a future memorial and a preservation of their rights, there should be issued to them by me, the Magistrate, a testimony of all the foregoing, which was so authorized. The assisting witnesses being Citizens Man'l Leon and Rafael Pico, with whom I act in virtue of my office for want of a Notary Public, there being none, according to law.

(Signed) JOAQ'N CARILLO.

Asssisting witnesses,

(Signed) MANUEL P. DE LEON.
(Signed) RAFAEL PICO.

Filed in office Dec. 1852.

CRISOGONO AYALA, BERNARDUS AVARES DE VANEGAS and PABLO VANEGAS *et al.* vs. THE UNITED STATES. } "Santa Ana."

The papers on file in this case show that on the 14th day of April, A. D. 1837, Governor Alvarado made a grant of the place called "Santa Ana." That on the 18th day of May, 1837, the said grant was duly confirmed by the Departmental Assembly, and that the same was judicially measured and possession formally given on the 8th day of July, 1843.

The foregoing title papers are all properly proven and authenticated.

The inhabitancy and cultivation of the lands granted are found to have been in conformity with the conditions of the grant, and in this particular the petitioners established superior merit.

It is in proof that Cosmo Vanegas is dead and that he died in the year 1851, leaving his widow, Bernardino Alvares, and two children, a son named Salva, and a daughter named Barbara, the latter having died some time in the year 1851, leaving her husband as her heir. The grant in this case is clearly one of metes and bounds, without regard to quantity. The Justice giving the possession is required by the terms of the 4th condition to report to the Government the number of leagues embraced within the limits as described on the map.

The record of judicial measurement contains a description of the boundaries of said Rancho, together with the number of varas which it contained in the juridical record of measurement, and the aid which may be derived from the map, which forms a part of the traced copy of the Espediente. I think there will be no difficulty in tracing the boundaries within which the tract in question is located. It appears from the proceedings on file in this case that Cresogono Ayala and Cosme Vanegas were equal owners of the place called Santa Ana; that at the time the latter named person died, Cresogono Ayala was the owner of the undivided half of said place; this would entitle the heirs of said Cosme Vanegas to the other undivided half of said premises. According to the Mexican laws, the widow was entitled in her own right to one-half of the property acquired during coverture; under this rule the widow of Cosme was entitled at his death to the undivided one-fourth part of said tract of land called "Santa Ana," and the two children, Pablo and Barbara, to the remaining one-fourth part; Barbara having died, her heirs, consisting of her husband and children, are now entitled to the one undivided eighth part of said tract. The petitioners are therefore entitled to a decree of confirmation as tenants in common of the place called "Santa Ana," which will be accordingly entered.

(*Decree.*)

CRISOGONO AYALA, BERNARDINO ALVARES DE VANEGAS, PABLO VANEGAS, CRISÓGONO AYALA, FRANCISCO AYALA, ROMAN AYALA, PEDRO AYALA, BUENAVESTA AYALA, JOAQUIN AYALA, MARIA AYALA, JACOBO AYALA, MERCED AYALA, JOSÉ REFUGIO AYALA, and JOSÉ RAMON AYALA

vs.

THE UNITED STATES.

In this case, hearing the proofs and allegations, it is adjudged by the Commission, that the claim of the said Polomares is valid, and

it is therefore decreed that the same be confirmed. The lands of which confirmation is hereby made, are known by the name of "Santa Ana," and are bounded and described as follows: Commencing at the point of the hill "La Viña Vieja" and running in an easterly direction nineteen thousand varas to the Rancheria de Matelija, thence running north twelve thousand varas to the end of "El Rincon;" thence running north-west seven thousand five hundred varas to the Portezuelo of the main road; thence to the point of beginning eleven thousand varas, making the tract granted to be included in a boundary of fifty-two thousand five hundred varas. This decree is understood to be in exact conformity with the opinion filed in the case, and to which reference is now made, and the parties are confirmed in their respective claims in the quantities there indicated and expressed—reference for further description of the premises to be had to the record of judicial possession, which is on file as evidence in the case, and also to the map which forms a part of the traced copy of the Espediente, which is also filed in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office Jan'y 24th, 1854.

GEO. FISHER,
Sec'y.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty-six pages, numbered from 1 to 36 both inclusive, to contain a true, correct and full transcript of the Record of the Proceedings and of the Decision of the said Board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office in Case No. 494, on the Docket of the said Board, wherein *Cresogono Ayala* is the Claimant against the United States for the place known by the name of "Santa Ana."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this twelfth day of September, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

[PRIV. SEAL.]

GEO. FISHER,
Sec'y.

UNITED STATES DISTRICT COURT,
Southern District of California:

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 37 pages, numbered from 1 to 37, both inclusive, contain a full, true, and correct copy of Transcript No. 494, filed in this office, wherein Cresogono Ayala *et al.* are appellees and the United States are appellants, for "Santa Ana."

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los Angeles, California, this sixth day of December, A. D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.] J. E. CARR,
Clk.

DISTRICT COURT OF THE UNITED STATES,
Southern District of California:

CLERK'S OFFICE, LOS ANGELES.

CRESOGONO AYALA *et al.* } Docket No. 97.
vs.
THE UNITED STATES. } Transcript No. 494.

Be it remembered that in the above entitled cause on appeal to the District Court of the United States for the Southern District of California, in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle Private Land Claims in California—

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said case, No. 494 on the docket of said Board, filed and marked No. 97 on the docket of this Court:

(*Vide* page 1.)

Notice of appeal by the Attorney-General filed:

(*Vide* page 3.)

Upon which said notice, the following subsequent proceedings was had in their chronological order, to wit:

Petition for review by U. S. Dist. Att'y, filed Aug. 23, 1855.

(*Vide* page 3.)

Answer to petition for review, filed Sept. 25, 1855:

(*Vide* page 9.)

Decree of Court, confirming the claim:

(*Vide* page 10.)

Order of Court granting appeal to the Supreme Court of the United States:

(*Vide* page 11.)

OFFICE OF THE ATTORNEY-GENERAL OF THE UNITED STATES,
WASHINGTON, 30th November, 1854.

CRESOGONO AYALA
vs. } 494.
THE UNITED STATES.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle Private Land Claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August, 1854, the appeal in the District Court of the United States for the Southern District of California will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney-General.

IN THE DISTRICT COURT OF THE UNITED STATES
for the Southern District of California:
LOS ANGELES COUNTY, STATE OF CALIFORNIA.

CRESOGONO AYALA *et als.*
ads.
THE UNITED STATES.

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the Southern District of California.

The petition of Pacificus Ord (of Los Angeles County), Attorney of the United States for the Southern District of California, who petitions in this behalf for, and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 20th day of December, A. D. 1852, Cresogono Ayala presented a petition to the Commissioners to ascertain and settle the Private Land Claims in the State of California, claiming the tract of land called "Santa Ana," in the county of Santa Barbara, in the words and figures following, viz.: "The petitioners, Cresogono Ayala, for himself, and Bernardina Alvares de Vanegas, Pablo Vanegas, Cresogono Ayala, Francisco Ayala, Ramon Ayala, Pecho Ayala, Buenaventura Ayala, Jacobo Ayala, Merced Ayala, Joaquin Ayala, Maria Ayala, José del Refu-

gio Ayala, and José Ramon Ayala, widow and heirs of Cosme Vanegas, deceased, respectfully show—

"That on the 14th day of April, 1837, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to Cresogono Ayala, one of these petitioners, and to Cosme Vanegas the tract of land called Santa Ana, situated in the present county of Santa Barbara, with the boundaries described in said grant, and represented in the accompanying map: That said grant was duly approved by the Deputation on the 18th of May, 1837, and that the said tract of land was duly surveyed, and the juridical possession given in due form, on the 8th day of July, 1843, all of which is fully shown by the original title, approval, map and record of juridical possession, submitted herewith marked "A," with a translation marked "B;" and the petitioners further show that the said Cosme Vanegas died on the day of , 184 , leaving the Bernardina Alvares de Vanegas his widow, and Pablo Vanegas and Barbara Vanegas de Ayala, his only legitimate children.

"That said Barbara Vanegas died on the day of , 185 , leaving the petitioner her widower, and Francisco Ayala, Pedro Ayala, Buenaventura Ayala, Joaquin Ayala, José del Refugio Ayala, Maria Ayala, Jacobo Ayala, Merced Ayala, and José Ramon Ayala, he only legitimate children. That the petitioners, and those under whom they hold, have been for more than fifteen years, and now are, in the quiet and undisputed possession of the said tract of land.

"That they know of no conflicting claim.

"That they rely for confirmation of title upon the original papers submitted herewith; upon the notes and records in the archives of the former government, in the charge of the U. S. Surveyor-General of California, and upon such other and further proofs as they may be advised are necessary.

"Therefore they pray the Commissioners to confirm to them the aforesaid tract of land."

Your petitioner further represents that thereafter, to wit, on the 24th day of January, A. D. 1854, the said Commissioners confirmed by final decree the said claim of the said Cresogono Ayala *et als.* in the words and figures following, to wit:—

"In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the said *Polomares* is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation is hereby made, are known by the name of 'Santa Ana,' and are bounded and described as follows: commencing at the point of the hill 'La Vena Vieja,' and running in an easterly direction nineteen thousand varas to the Rancheria de Mateliza; thence running north twelve thousand varas to the end of 'El Rincon;' thence running northwest seven thousand five hundred varas to the Portezuela of the main road; thence to the point of beginning eleven thousand varas, making the tract granted to be included in a boundary of fifty-two thousand five hundred varas.

"This decree is understood to be in exact conformity with the opinion filed in the case, and to which reference is now made, and the parties are confirmed in their respective claims in the quantities there indicated and expressed.

"Reference for further description of the premises to be had to the record of Judicial Possession, which is on file as evidence in the case, and also to the map which forms a part of the traced copy of the Expediente, which is also filed in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners."

That thereafter, to wit, on the 20th day of September, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 97 (Transcript No. 494), reference to which it is prayed may be had and made a part of this petition.

That on the 30th day of August, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said cause (No. 97), and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney-General of the United States filed or caused to be filed, on behalf of the United States, a notice with the said Clerk of said District Court for the Southern District of California, that the appeal in said cause of Cresogono Ayala *et als. vs.* The United States, from the decision of said Commissioners to ascertain and settle the Private Land Claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents that the said land claimed as aforesaid is within the jurisdiction of this Honorable Court. And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And the said Attorney denies all and singular each and every allegation in the said petition of the said claimants to said Commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further that the said claimant has shown any or sufficient evidence of the validity of the said claim. And your petitioner further

represents that the said claim is invalid, and the said decree erroneous, on the following grounds.

1st. That the said alleged grant of Juan B. Alvarado was made in violation of the 4th Article of the colonization laws of Mexico of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimants, was and is within ten leagues of the sea-coast; and there is no evidence shown by claimaints that the Supreme general Executive power of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea-coast. And it is denied that such previous consent of said Supreme general Executive power of Mexico in such case was ever had.

II. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by, and in the possession of the Missions of the Territory of Upper California; and it was held and occupied particularly by the Mission of San Buenaventura, and could not therefore be colonized.

III. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico, of the 18th day of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico, of the 21st November, 1828.

IV. That there is no evidence that the said alleged grant was ever approved by the Territorial Deputation or Departmental Assembly of California, or the Supreme Government of Mexico.

V. That the said alleged grant is vague and indefinite in the description of the land pretended to have been granted. That it does not specify the quantity granted. That it does not show the locality and boundaries of the land, so that it could be identified and surveyed. That the petition and map referred to therein for a description of the locality, extent, and boundaries of the land, are vague and indefinite. That it is not executed upon the lawful stamped paper. And the said alleged grant is void for uncertainty.

VI. That the said claimant fails to show a definitive grant or title for the land claimed.

VII. That there is no sufficient evidence that the said claimants performed all the conditions of the said alleged grant.

VIII. That the land upon which the said claimants settled and made improvements, is not shown to be the same land granted to them as pretended.

IX. That the pretended juridical acts of survey and possession of said land by Joaquin Carrillo, dated on or about the 6th and 8th of July, A. D. 1843, were not made according to the said alleged grant, and the petition and map referred to therein, nor according to the ordinance of law. And they are vague, indefinite, and void.

X. That there is no evidence that the said Joaquin Carrillo was

a Magistrate of Santa Barbara, on or about the 6th or 8th of July, A. D. 1843, and that he then had lawful authority as such to perform the said pretended juridical acts of survey and possession of said land claimed as aforesaid. And no sufficient proof having been made by said claimants of the allegations of their said petition, or in support of their said claim filed as aforesaid, no decree ought to have been made or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said Commissioners upon the grounds aforesaid. And the said claimants having no valid right or title derived from the Spanish or Mexican Government, to the said land claimed by them as aforesaid, the lawful right or title in and to the said land was acquired by, and it now belongs to the said United States by virtue of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays, that the said Cresogono Ayala and Bernardina Alvares de Vanegas, Pablo Vanegas, Cresogono Ayala, Francisco Ayala, Ramon Ayala, Pedro Ayala, Buenaventura Ayala, Jacobo Ayala, Merced Ayala, Joaquin Ayala, Maria Ayala, José del Refugio Ayala, and José Ramon Ayala, may be served with copies of this petition. And that this Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Cresogono Ayala *et als.* for said land claimed and confirmed as aforesaid; and that the same may be decreed invalid. And all such other orders, judgments, or decrees, as may be just.

With costs and general relief.

(Signed) P. ORD,
Attorney of the United States for the Southern District of Cal'a.

Filed August 24th, 1855.

(Signed) C. E. CARR,
Cl'k.

No. 97.

IN THE UNITED STATES DISTRICT COURT
for the Southern District of California:

THE UNITED STATES, Appellants,
vs.
CRISOGONO AYALA *et al.*, Appellees. } Answer of Appellees.

Crisagono Ayala, Bernadino Alvares de Vanegas, Pablo Vanegas,

Crisagono Ayala, Francisco Ayala, Roman Ayala, Pedro Ayala, Buenavista Ayala, Joaquin Ayala, Maria Ayala, Jacobo Ayala, Merced Ayala, Jose Refugio Ayala, and Jose Ramon Ayala, appellees, appear by their attorneys, and for answer to the petition of the United States filed herein, say—

That their title to the land called "Santa Anna," as set forth and described in their petition to the Board of Commissioners, and in the documentary and other evidence in this case, is a good and valid title, and they pray this Honorable Court to affirm the decision of the Board of Commissioners, and to decree their title to be valid.

(Signed) HALLECK, PEACHY & BILLINGS,
Att'ys for Appellees.

Filed Sept. 25th, 1855.
(Signed) C. E. CARR,
Clk.
by JOHN W. ROSS,
Dep.

THE UNITED STATES, Appellants,
vs.
CRESOGONO AYALA *et al.*, Appellees. } No. 97. ("Santa Ana.")

This cause, coming on to be heard at a special term of this Court, on an appeal from the final decision of the Commissioners to ascertain and settle Private Land Claims in the State of California, under the act of Congress approved March 3d, 1851: Upon the transcript of the proceedings and decision, and the papers and evidence on which said decree was founded, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard: It is ordered, adjudged and decreed, that the decision of the said Commissioners be affirmed, and that the claim of Cresogono Ayala, Bernadino Alvares de Vanegas, Pablo Vanegas, Cresogono Ayala, Francisco Ayala, Ramon Ayala, Pedro Ayala, Buenaventura Ayala, Jacobo Ayala, Merced Ayala, Joaquin Ayala, Maria Ayala, Jose de Refugio Ayala, and Jose Ramon Ayala, appellees in this case, to the land described in this grant in this case, is a good and valid claim, and the same is hereby confirmed to said appellees, to the extent and bounds as described in the grant and map to which it refers, and are bounded and described as follows: Commencing at the point of the hill "La Veña Vieja," and running in an easterly direction nineteen thousand varas to the Rancheria de Matiliga; thence running north twelve thousand varas, to the end of "El Rincon;" thence running north-west seven thousand five hundred varas, to the portesuelo of the main road; thence to the point of beginning, eleven thousand varas, making the tract granted to be included in a boundary of fifty-two thousand five hundred varas, reference for further and more particular description